

**State Long-Term Care Ombudsman Provisions  
In the Older Americans Act, as Amended in 2000**

**By Topic, With Policy Interpretations**

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*References are to PL 106-501, 42 U.S.C. 3058f. Italics indicate new or revised provisions in the 2000 Amendments to the Older Americans Act (OAA).*

## **GENERAL TITLE VII REQUIREMENTS**

### **TITLE VII – ESTABLISHMENT, AUTHORIZATION OF APPROPRIATIONS, ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES**

#### **Older Americans Act Language**

#### **SUBTITLE A – STATE PROVISIONS**

#### **CHAPTER 1 – GENERAL STATE PROVISIONS**

##### **Sec. 701**

##### **SEC. 701. ESTABLISHMENT.**

The Assistant Secretary, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

##### **Sec. 702**

##### **SEC. 702. AUTHORIZATION OF APPROPRIATIONS.**

(a) Ombudsman Program.--There are authorized to be appropriated to carry out chapter 2, *such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.*

(b) Prevention of Elder Abuse, Neglect, and Exploitation.--There are authorized to be appropriated to carry out chapter 3, *such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.*

(c) Legal Assistance Development Program.--There are authorized to be appropriated to carry out chapter 4, *such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.*

##### **Sec. 703**

##### **SEC. 703. ALLOTMENT.**

(a) In General.--

(1) Population.--In carrying out the program described in section 701, the Assistant Secretary shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

(2) Minimum allotments.--

(A) In general.--After making the initial allotments described in paragraph (1), the Assistant Secretary shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

(B) General minimum allotments.--

(i) Minimum allotment for states.--No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

(ii) Minimum allotment for territories.--Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

(C) Minimum allotments for ombudsman and elder abuse programs.--

(i) Ombudsman program.--No State shall be allotted for a fiscal year, from the funds appropriated under *section 702 and made available to carry out chapter 2*, less than the amount allotted to the State under section 304 in fiscal year 2000 to carry out the State Long-Term Care Ombudsman program under title III.

(ii) Elder abuse programs.--No State shall be allotted for a fiscal year, from the funds appropriated under *section 702 and made available to carry out chapter 3*, less than the amount allotted to the State under section 304 in fiscal year 2000 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under title III.

(D) Definition.--For the purposes of this paragraph, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) Reallotment.--

(1) In general.--If the Assistant Secretary determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make the amount available to a State that the Assistant Secretary determines will be able to use the amount for carrying out the purpose.

(2) Availability.--Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subtitle, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

(c) Withholding.--If the Assistant Secretary finds that any State has failed to carry out this title in accordance with the assurances made and description provided under section 705, the Assistant Secretary shall withhold the allotment of funds to the

State. The Assistant Secretary shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

## **ORGANIZATION**

### **Sec. 704**

#### **SEC. 704. ORGANIZATION.**

In order for a State to be eligible to receive allotments under this subtitle--

- (1) the State shall demonstrate eligibility under section 305;
- (2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and
- (3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

## **ADDITIONAL STATE PLAN REQUIREMENTS**

### **Sec. 705**

#### **SEC. 705. ADDITIONAL STATE PLAN REQUIREMENTS.**

(a) Eligibility.--In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307--

- (1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;
- (2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;
- (3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;
- (4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out *each of* the vulnerable elder rights protection activities described in the chapter;

(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3--

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for--

(i) public education to identify and prevent elder abuse;

(ii) receipt of reports of elder abuse;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except--

(i) if all parties to such complaint consent in writing to the release of such information;

(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(iii) upon court order ;*and*

( 7) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in *paragraphs (1) through (6)*.

(b) Privilege.--Neither a State, nor a State agency, may require any provider of legal assistance under this subtitle to reveal any information that is protected by the attorney-client privilege.

## **TITLE VII, CHAPTER 2 – OMBUDSMAN PROGRAMS**

### **DEFINITIONS**

#### **Older Americans Act Language**

#### **Sec. 711**

## **SEC. 711. DEFINITIONS.**

As used in this chapter:

- (1) Office.--The term ``Office" means the office established in section 712(a)(1)(A).
- (2) Ombudsman.--The term ``Ombudsman" means the individual described in section 712(a)(2).
- (3) Local ombudsman entity.--The term ``local Ombudsman entity" means an entity designated under section 712(a)(5)(A) to carry out the duties described in section 712(a)(5)(B) with respect to a planning and service area or other substate area.
- (4) Program.--The term ``program" means the State Long-Term Care Ombudsman program established in section 712(a)(1)(B).
- (5) Representative.--The term ``representative" includes an employee or volunteer who represents an entity designated under section 712(a)(5)(A) and who is individually designated by the Ombudsman.
- (6) Resident.--The term ``resident" means an older individual who resides in a long-term care facility.

*Note: All provisions which follow are in Sec. 712, unless otherwise indicated.*

## **ESTABLISHMENT AND PROGRAM PLACEMENT**

### **Older Americans Act Language**

#### **Sec. 712. Establishment.--**

- (a)(1) In general.-- In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(a), a State agency shall, in accordance with this section--
  - (A) establish and operate an Office of the State Long-Term Care Ombudsman; and
  - (B) carry out through the Office a State Long-Term Care Ombudsman program.

## **CONTRACTS AND ARRANGEMENTS FOR OPERATING THE PROGRAM: PROHIBITION AGAINST CONTRACTING WITH LICENSING/CERTIFICATION AGENCY OR ASSOCIATION OF FACILITIES**

### **Older Americans Act Language**

- (a)(4)(A) In general.--Except as provided in subparagraph (B), the state agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
- (B) Licensing and certification organizations; associations.--The State agency may not enter into the contract or other arrangement described in subparagraph (A) with--

- (i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or
- (ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

## **FULL-TIME OMBUDSMAN REQUIREMENT**

### **Older Americans Act Language**

(a)(2) Ombudsman.--The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) Functions.--The Ombudsman shall serve on a full-time basis....

### **AoA Policy Interpretation**

“Full-time basis” means the position is full-time, and the individual who serves in the position has no duties other than those directly related to the Long-Term Care Ombudsman Program, as defined in Section 712 of the Act.

## **FACILITIES COVERED**

### **Older Americans Act Language**

Sec.102 (32) The term “long-term care facility” means--

(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i093(a));

(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

(C) for purposes of sections 307(a)(9) and 712, a board and care facility; and

(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

Sec. 102 (18) The term “board and care facility” means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42U.S.C. 1382e(e)).

### **AoA Policy Interpretation**

Assisted living facilities are included under Sec. 102 (32)(D). Nursing homes and adult care homes similar to board and care homes where all residents are private-pay are included. Rationale: the Older Americans Act is for all older people in the U.S. age 60



plus and above, and the definition of “resident” in Section 711(6) is “an older individual who resides in a long-term care facility.” (See policy under program clients, below.)

## **PROGRAM CLIENTS AND FUNCTIONS**

### **Older Americans Act Language**

(a)(3) Functions.— The Ombudsman shall...personally or through representatives of the Office--

(A) identify, investigate, and resolve complaints that--

(i) are made by, or on behalf of, residents;

### **AoA Policy Interpretation Regarding Clients**

The primary role of the Ombudsman is to advocate for the rights and interests of residents of long-term care facilities.

The Ombudsman may serve residents in facilities which are all private pay. The Older Americans Act is for all older people in the U.S. age 60 and above, and the definition of “resident” is “an older individual who resides in a long-term care facility.” (OAA Section 711(6))

Long-standing AoA policy is that the Ombudsman and ombudsman representatives may serve disabled individuals under the age of 60 who are living in long-term care facilities, if such service does not weaken or decrease service to older individuals covered under the Act.

## **PROGRAM FUNCTIONS (CONTINUED)**

### **Older Americans Act Language**

(A) identify, investigate, and resolve complaints that--

(i) are made by, or on behalf of, residents

and (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of--

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate.

## **LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES**

### **Older Americans Act Language**

(a)(5) Designation of local ombudsman entities and representatives.--

(A) Designation.--In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

### **Policy Interpretation on State Ombudsman Authority**

The State Ombudsman has the authority to designate local Ombudsman entities and ombudsman representatives to participate in the statewide Ombudsman Program and to revoke designation, if necessary.

### **Older Americans Language**

(B) Duties.--An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency--

(i) provide services to protect the health, safety, welfare and rights of residents;

(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(vi) support the development of resident and family councils; and

(vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation.--Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall--

(i) have demonstrated capability to carry out the responsibilities of the Office;

(ii) be free of conflicts of interest *and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves*;

### **Policy Interpretation of Local Ombudsman Conflict-of-Interest**

Local Ombudsman entities and representatives must have no conflict-of-interest, as defined in the conflict-of-interest section of the Act.

### **Older Americans Act Language**

(iii) in the case of the entities, be public or nonprofit private entities; and

(iv) meet such additional requirements as the Ombudsman may specify.

## **STATE OMBUDSMAN PROGRAM POLICIES AND PROCEDURES**

### **Older Americans Act Language**

(a)(5)(D) Policies and procedures.--

(i) In general.--The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) Policies.--In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

## **CONFIDENTIALITY AND DISCLOSURE**

### **Older Americans Act Language**

(a)(5)(D)(iii) Confidentiality and disclosure.--The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

*(Skip to 712(d)(1) for disclosure.)*

(d)(1) In general.--The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).

(2) Identity of complainant or resident.--The procedures described in paragraph (1) shall--

(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless--

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and

(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii) the disclosure is required by court order.

### **Policy Interpretation on Mandatory State Abuse Reporting Laws and Ombudsman Disclosure**

Representatives of the Ombudsman Program may not be required to disclose the identity of a complainant or resident except under conditions outlined in section 712(d) of the Act. Federal law supersedes states law in instances where state law mandates that ombudsmen report all incidents of abuse. In such instances, ombudsmen must follow the disclosure procedure outlined in Section 712 (d).

### **Policy Interpretation on Freedom of Information Act Requests**

Ombudsman records are not subject to the federal Freedom of Information Act (FOIA), inasmuch as the FOIA applies only to federal agency records, and records maintained by a state ombudsman are not federal records. Regarding state FOIA statutes, which many legislatures have enacted for purposes of disclosure of state records, the requirements and exemptions are similar but not necessarily identical to those in the federal FOIA. If disclosure were requested pursuant to such a state statute, it is likely but not certain that there would be an exemption for records, such as ombudsman records, that are made confidential by statute. If there were no such exemption in the state FOIA statute and a conflict between the state statute and the OAA could not be avoided, then the federal position would be that the OAA prevails under the Supremacy Clause of the U.S. Constitution.

## **ACCESS TO FACILITIES AND RESIDENTS**

### **Older Americans Act Language**

(b) Procedures for Access.--

(1) In general.--The State shall ensure that representatives of the Office shall have-

-

(A) access to long-term care facilities and residents;...

(2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).

### **OBRA Statutory Requirement Regarding Ombudsman Access to Facilities and Residents**

The Omnibus Budget and Reconciliation Act of 1987 (OBRA '87), known as the Nursing Home Reform Act, amended Sections 1819 (Medicare) and 1919 (Medicaid) (c)(3)(A) of the Social Security Act as follows: "(3) ACCESS AND VISITATION RIGHTS.- A nursing facility must-(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman...or by the resident's individual physician." Since board and care and similar facilities (such as assisted living facilities) are not covered under OBRA

and are regulated entirely by state government, states must ensure ombudsman access to these facilities through state statute, regulation, executive order or policy.

## **ACCESS TO RECORDS**

### **Older Americans Act Language**

(b) Procedures for Access.--

(1) In general.--The State shall ensure that representatives of the Office shall have--

-  
(B)(i) appropriate access to review the medical and social records of a resident, if--  
(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to consent to the review and has no legal representative;  
or

(ii) access to the records as is necessary to investigate a complaint if--

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).

### **OBRA Statutory Requirement Regarding Ombudsman Access to Records**

The Omnibus Budget and Reconciliation Act of 1987 (OBRA '87), known as the Nursing Home Reform Act, amended Sections 1819 (Medicare) and 1919

(Medicaid) (c)(3)(E) of the Social Security Act as follows: "ACCESS AND

VISITATION RIGHTS.- A nursing facility must - (E) permit representatives of the state ombudsman...with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records."

**Note:** Since board and care and similar facilities (such as assisted living facilities) are not covered under OBRA and are regulated entirely by state government, to be in compliance with the Older Americans Act, states must ensure ombudsman access to

resident and other records for these facilities through state statute, regulation, executive order or policy.

## **STATEWIDE UNIFORM REPORTING SYSTEM AND REPORTS**

### **Older Americans Act Language**

(c) Reporting System.--The State agency shall establish a statewide uniform reporting system to--

(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2) submit the data, on a regular basis, to--

(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B) other State and Federal entities that the Ombudsman determines to be appropriate;

(C) the Commissioner; and

(D) the National Ombudsman Resource Center established in section 202(a)(21).

(h) Administration.--The State agency shall require the Office to--

(1) prepare an annual report--

(A) describing the activities carried out by the Office in the year for which the report is prepared;

(B) containing and analyzing the data collected under subsection (c);

(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D) containing recommendations for--

(i) improving quality of the care and life of the residents; and (ii) protecting the health, safety, welfare, and rights of the residents;

(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such

laws, regulations, and policies as the Office determines to be appropriate;

(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding--

(i) the problems and concerns of older individuals residing in long-term care facilities; and

(ii) recommendations related to the problems and concerns; and

(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(The AoA reporting requirement is in section 207(b) of the OAA.)

### **Background and AoA Policy Regarding Ombudsman Reporting**

States must submit annual ombudsman reports to AoA by a specified date early each year for the previous fiscal year, Oct. 1 through Sept. 30. To ensure compatibility of data, AoA and state ombudsmen jointly developed a standard reporting system, the National Ombudsman Reporting System (NORS), which was initiated in 1995-96. States must submit their reports on a diskette or by e-mail on a standard computer format entitled the National Ombudsman Reporting Data Input Application (NORDIA). AoA issues instructions each year regarding submission of the report. States have developed and use a variety of different software systems to collect case and complaint data and other information. Typically, these systems involve data entry at the local ombudsman program level and compilation at the state level. The most useful systems are relational, in that they can relate one set of data to another set of data.

## **CONSULTATION WITH AREA AGENCIES**

### **Older Americans Act Language**

(e) Consultation.--In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

## **CONFLICT-OF-INTEREST**

### **Older Americans Act Language**

(f) Conflict of Interest.--The State agency shall--

(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or



otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3) ensure that the Ombudsman--

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C) is not employed by, or participating in the management of, a long-term care facility; and

(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--

(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

### **AoA Policies Regarding Conflict-of-Interest**

“Immediate family” means spouse, parents, children and siblings.

It would be a conflict of interest for an official or employee of any agency at either the state or local level which directly administers the licensing and certification of long-term care facilities or owns or operates such facilities, or provides services to residents of such facilities, to designate or remove from office the ombudsman or ombudsman representatives.

Employment by a long-term care facility or otherwise receiving, directly or indirectly, remuneration from an owner or operator of a long-term care facility is a clear conflict of interest for any representative of the ombudsman program. Individuals employed by a long-term care facility, an association of facilities, a business or agency which provides services in long-term care facilities or to residents or an agency which licenses or certifies facilities or facility administrators must not be permitted to serve the statewide ombudsman program in any decision-

making, policy-setting or program operation capacity. This applies to both paid and volunteer ombudsman staff and ombudsman program boards. The ombudsman program may, of course, seek both information and advice from such individuals.

It is incumbent upon the state agency on aging and the established office of the ombudsman in a state to ensure that, in the conduct of all aspects of the statewide long-term care ombudsman program, the integrity of the work of the ombudsman and ombudsman representatives is maintained. There must be no inappropriate or improper influence from any individual or entity, regardless of the source, which will impact on the objectivity of the investigation or outcome of complaints or the ombudsman's work to resolve major issues related to the rights, quality of care and quality of life of the residents of long-term care facilities.

## **LEGAL COUNSEL**

### **Older Americans Act Language**

(g) Legal Counsel.--The State agency shall ensure that--

(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to--

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

## **TRAINING**

### **Older Americans Act Language**

(h) Administration.--The State agency shall require the Office to--

(4)(A) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that-

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- (A) specify a minimum number of hours of initial training;
- (B) specify the content of the training, including training relating to--
  - (i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;
  - (ii) investigative techniques; and
  - (iii) such other matters as the State determines to be appropriate; and
- (C) specify an annual number of hours of in-service training for all designated representatives; and
- (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
  - (A) has received the training required under paragraph (4); and
  - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

## **COORDINATION WITH PROTECTION AND ADVOCACY SYSTEMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND MENTAL ILLNESSES AND LEGAL SERVICES**

### **Older Americans Act Language**

- (h)(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
  - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
  - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
- (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;
- (8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction and*
- (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

## **LIABILITY**

### **Older Americans Act Language**

- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

## **NONINTERFERENCE**

### **Older Americans Act Language**

(j) Noninterference.--The State shall--

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

## **REGULATIONS**

### **Older Americans Act Language**

#### **Sec. 713**

#### **SEC. 713. REGULATIONS.**

The Assistant Secretary shall issue and periodically update regulations respecting--

(1) conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f); and

(2) the relationships described in subparagraphs (A) through (D) of section 712(f)(3).

## **FUNDING/FISCAL POLICIES**

(Fiscal requirements for the Ombudsman Program are in Title III and Title VII. The source of much of the funding policy provided below is AoA PI 94-2, issued April 5, 1994.)

### **TITLE III SOCIAL SERVICES (III-B) FUNDS FOR OMBUDSMAN ACTIVITIES**

#### **Older Americans Act Language**

Section 304(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year--

(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

**(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(9) shall be available for conducting such program;** (emphasis added)

### **Background and Policy Interpretation**

This is the statutory provision under which states provide most of the Ombudsman Program funding. It means that of the funds Congress appropriates each year to the states for social services under the Older Americans Act, after state and area agency administration funding is provided, states may use “such amount as the State agency determines to be adequate for conducting an effective Ombudsman Program” before this money is distributed to the area agencies through the Title III intrastate funding formula. States may use these funds for their statewide ombudsman activities at the state or local level. There is no separate match for ombudsman funds taken “off the top.” Area agencies may also use Title III funds which they receive through the intrastate funding formula for ombudsman activities.

## **MINIMUM REQUIRED OMBUDSMAN PROGRAM FUNDING LEVEL FOR STATE AND AREA AGENCIES ON AGING**

### **For States**

#### **Older Americans Act Language – State Plans**

*Sec. 307(a)(9) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purposes an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2000. (Replaced Sec. 307(a)(21))*

### **For Area Agencies**

#### **Older Americans Act Language – Area Agencies**

*Sec. 306(a)(9) (The area plan must) provide assurances that the area agency, in carrying out the State Long-Term Care Ombudsman Program under section 307(a)(9), will expend not less than the total amount of funds appropriated under*

*this Act and expended by the agency in fiscal year 2000 in carrying out such a program under this title. (Replaced Section 306(a)(11))*

## **NON-SUPPLANTATION PROVISIONS**

### **Older Americans Act Language**

*Section 321(d) Funds made available under this part shall supplement, and not supplant, any federal, State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in subsection (a).*

705(a)(4) In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307B an assurance that the State will use funds made available under this subtitle in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of enactment of this subtitle, to carry out *each of* the vulnerable elder rights protections activities described in this chapter.

### **Discussion of Minimum Funding and Non-Supplantation Provisions**

The 2000 amendments to the OAA retained and updated the state and area agency ombudsman minimum funding requirements and the Title VII non-supplantation provision and added a new non-supplantation provision to Title III.

The Senate Committee report elaborated on that body's intent relative to the funding provisions for ombudsman programs:

It is the committee's intent for a State to expend in subsequent years, at a minimum, the amount spent by the State on its Long Term Care Ombudsman Program in FY 2000, in addition to any increase in funding provided for ombudsman activities in each fiscal year under Title VII. (The Senate Committee on Health, Education, Labor and Pensions [HELP] report "Older Americans Act Amendments of 1999," Senate Committee Report 106-399, page 5)

Taken together, the minimum funding and non-supplantation requirements mean that States must expend on their statewide ombudsman programs no less than they expended in Title III funds (federal and 15% non-federal match) for FY 2000, plus provide increases in funding when Title VII long-term care ombudsman program appropriations increase. This amount must be expended annually on ombudsman

services to residents of long term care facilities, as defined in Sections 102(18) and (32), 307(a)(12) and 711(6) of the Act. All of the Title VII ombudsman funding appropriated by Congress and allotted to a State for a specific year must be expended on direct costs of the Ombudsman Program.

Area agencies must expend on activities of the Ombudsman Program, as defined in Section 712 of the Act, not less than the total amount of Title III funds received under Section 304(d)(1)(D) and expended by the area agency in carrying out the Ombudsman Program under Title III in FY 2000.

State or unit of general purpose local government (including area agencies on aging) may not use ombudsman Title VII funds to supplant, replace, or in substitution for, any other federal, State or local funding expended pursuant to federal, State or local funding laws that were in effect on or before 11/12/00, which was one day before the date of the enactment of Public Law 106-510.

#### **ALLOWABLE USES OF TITLE VII ABUSE PREVENTION AND OMBUDSMAN PROGRAM FUNDING**

States may use any portion of their Title VII abuse prevention allotment to fund specific, identifiable activities conducted by any public or private non-profit program or agency, including adult protective services and ombudsman programs, which directly correspond to the abuse prevention activities outlined in Section 721(b) of the OAA.

States may not provide any of their Title VII abuse prevention allotment to adult protective services agencies to conduct activities or provide services not authorized in Section 721(b).

Use of Title VII funding for involuntary services to, or coerced participation in, Title VII-funded programs by alleged victims, abusers or their households, is strictly prohibited.

Use of any of the Title VII ombudsman allotment to fund activities which are not authorized under Section 712 of the OAA and conducted by the Ombudsman Program or a grantee or contractor of the Ombudsman Program is prohibited. This includes, but is not limited to, ombudsman services in settings other than long term care facilities, as defined in Section 102(18) and (32) of the OAA, and activities under Title VII, Chapters 3, and 4 conducted by individuals or agencies other than the Ombudsman or Ombudsman Program, or the Ombudsman's grantee or contractor.

### **Rationale for Policy on Use of Abuse Prevention and Ombudsman Funds**

Section 721(d)(3) specifically requires coordination of elder abuse, neglect and exploitation prevention activities with the Long Term Care Ombudsman Program in the state. Many ombudsman activities help prevent elder abuse, neglect and exploitation in nursing homes, board and care homes and similar adult care facilities; and ombudsmen routinely carry out several of the activities listed in Section 721(b), as applicable to these settings. Such activities include:

- public education and outreach to help identify and prevent elder abuse, neglect and exploitation;
- coordination of services with the State adult protection service program;
- data collection on the extent of abuse, neglect and exploitation in long-term care facilities;
- analysis of information and identification of service, enforcement or intervention needs;
- training for individuals, professionals and paraprofessionals on prevention of abuse and enhancement of residents' self-determination and autonomy; and
- technical assistance and training for individuals, including local ombudsman representatives, who provide services for victims of abuse and their families.

Prior to enactment of the 1992 OAA amendments, the elder abuse prevention provision was in Title III, Part G of the Act. The Fiscal Year 1991 appropriation provided separate funding for both abuse prevention activities under Part G and ombudsman activities. The conference report for the FY 1991 appropriation stated:

It is the expectation of the conferees that the States be given discretion in the allocation of the elder abuse funds so as to provide for the most effective elder abuse prevention efforts. It is further the conferees' expectation that portions of the elder abuse funds will be made available to State long-term care ombudsman programs to address complaints of abuse in long-term care facilities, including board and care homes.  
(Congressional Record H.10798, October 20, 1990.)

The 1992 OAA amendments moved both the ombudsman and elder abuse program provisions from Title III to the new Title VII, and the Fiscal Year 1993 Departments



of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act provided Title VII funding for both programs.

The logic of the use of elder abuse prevention funds, as expressed in the legislative history, carries over from Title III, Part G to Title VII. There is no basis in the legislative history or in practical application for states to use Ombudsman Program money to fund abuse prevention activities conducted outside of the Ombudsman Program.

There is no basis in the law or the legislative history for states to use funding provided to conduct ombudsman services, as defined in Section 712 of the OAA, to fund ombudsman or advocacy services for individuals living in their own homes or receiving acute medical care in facilities not covered under the definitions of long term care facilities in the OAA.

## **NON-APPLICABILITY OF THE INTRASTATE FUNDING FORMULA TO TITLE VII FUNDING**

### **Policy**

The intrastate funding formula applies only to Title III funds under Section 304(d)(1)(D) and does not apply to Title VII.

### **Discussion**

The purpose of Title VII is to focus attention on advocacy programs which the states, not the area agencies, have the responsibility to establish and operate. States may designate funding under the various chapters of Title VII for area agency activities or activities conducted by other local or regional agencies or organizations which correlate with the purpose of the funding under a particular chapter, but this should be done for targeted and approved activities, not by the established Title III formula. The Joint Explanatory Statement of the Committees of Jurisdiction, Older Americans Act Amendments of 1992 states:

...the current Title III requirements governing the allocation of funds within states are not applicable to funds made available under any part of Title VII nor are area agencies the only entities eligible to receive grants from states under any part of Title VII. In addition, states may use funds available under Title VII to directly carry out vulnerable elder rights protection activities. (138 Congressional Record, S125, 13503 [daily ed. September 15, 1992])

Section 762 of the OAA makes it clear that a state may carry out Title VII activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, including but not limited to area agencies. The intent is that states direct the use of Title VII money for activities within the state which are planned and coordinated by the State Agency on Aging. Section 705(a)(1) and (2) make clear that states are to consult with area agencies and others in identifying and prioritizing statewide activities conducted under Title VII.

In fact, the nature of the intrastate funding formula is such that it is not applicable to the Title VII chapters. For example, in distributing funds under Chapter 2, it would be reasonable for states to provide funding to stimulate development of new local ombudsman programs and take into account the location and size of long term care facilities, which are the major influence on workload for local ombudsmen and volunteers. The distribution of nursing and board and care homes might be different than the distribution of older people in the state and the other factors which affect the intrastate funding formula.

## **NON-INCLUSION OF TITLE VII FUNDS IN THE CALCULATION OF STATE ADMINISTRATIVE COSTS**

### **Policy**

States may not include any Title VII funding in their calculation of funds available for state plan administration.

### **Discussion**

There is absent any reference in the OAA to Title VII allotments in calculating funding for administration of state plans. On the other hand, it is quite clear that the OAA authorizes States to allocate five percent, or \$800,000, whichever is greater, of their cumulative total Title III allotments for meeting administrative costs.

The programs under Title VII, unlike most of the programs under Title III, are established and operated as direct advocacy services by the State Agency on Aging and/or agencies with which the State Agency contracts or provides grants to operate the programs. Thus, at least some, if not all, of the Title VII funds are used to pay directly for such administrative costs as staff, offices expenses, travel, etc.

Therefore, a major funding principle to which States need to adhere with regard to Title VII is that all funding allotted for a particular Title VII chapter must be used to carry out the requirements and activities specified for that chapter in the OAA.

## **NON-INCLUSION OF TITLE VII FUNDS IN THE CALCULATION OF FUNDS FOR AREA PLAN ADMINISTRATION**

### **Policy**

Title VII funds allotted to the States should not and may not be included in the base amount used to calculate the limitation on the use of funds for area plan administration under the provisions of Section 304(d)(1)(A) of the OAA.

### **Discussion**

There is no legislative basis for inclusion of Title VII funding in the calculation for determining area agency funding for administration of area plans. The provisions of Section 304 apply to Title III funds, not Title VII funds. Title VII funds are excluded from funds distributed to area agencies through the intrastate funding formula. Therefore, the Title III formula for calculation of funding for area plan administration may not be applied to the Title VII funding allotted to a state.

## **NO TITLE VII MATCHING REQUIREMENT**

The provisions in the OAA regarding matching funds, Sections 304(d)(1)(D) and 308(a)(1), apply to Title III funds. There is no statutory base to require states to match federal funding they receive under Title VII; therefore, there is no federal matching requirement for Title VII funds. States, however, are not precluded from requesting a match to Title VII funds which they award by grant or contract to another agency or organization.

## **OFFICE OF LONG-TERM CARE OMBUDSMAN PROGRAMS IN THE ADMINISTRATION ON AGING**

### **Older Americans Act Language**

Sec. 201(d)(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the ``Office").

(2)(A) The Office shall be headed by a Director of the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the ``Director") who shall be appointed by the Assistant Secretary from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Director shall report directly to the Assistant Secretary.

(B) No individual shall be appointed Director if--

(i) the individual has been employed within the previous 2 years by--

- (I) a long-term care facility;
- (II) a corporation that then owned or operated a long-term care facility; or
- (III) an association of long-term care facilities;
- (ii) the individual--
  - (I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or
  - (II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or
  - (iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.
- (3) The Director shall--
  - (A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;
  - (B) review and make recommendations to the Assistant Secretary regarding--
    - (i) the approval of the provisions in State plans submitted under section 307(a) that relate to State Long-Term Care Ombudsman programs; and
    - (ii) the adequacy of State budgets and policies relating to the programs;
  - (C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Assistant Secretary regarding--
    - (i) policies designed to assist State Long-Term Care Ombudsmen; and
    - (ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(9) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;
  - (D) keep the Assistant Secretary and the Secretary fully and currently informed about--
    - (i) problems relating to State Long-Term Care Ombudsman programs; and
    - (ii) the necessity for, and the progress toward, solving the problems;
  - (E) review, and make recommendations to the Secretary and the Assistant Secretary regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;
  - (F) make recommendations to the Assistant Secretary and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;
  - (G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;

(H) administer the National Ombudsman Resource Center established under section 202(a)(21) and make recommendations to the Assistant Secretary regarding the operation of the National Ombudsman Resource Center;

(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this Act;

(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 307(a)(9) and section 712;

(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

(L) not later than 180 days after the date of the enactment of the Older Americans Act Amendments of 1992, establish standards applicable to the training required by section 712(h)(4).

## **THE NATIONAL LONG-TERM CARE OMBUDSMAN RESOURCE CENTER**

### **Older Americans Act Language**

Section 202. (a) It shall be the duty and function of the Administration to--

(18)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the ``Center"), under the administration of the Director of the Office of Long-Term Care Ombudsman Programs, that will--

(i) by grant or contract--

(I) conduct research;

(II) provide training, technical assistance, and information to State Long-Term Care Ombudsmen;

(III) analyze laws, regulations, programs, and practices; and

(IV) provide assistance in recruiting and retaining volunteers for State Long-Term Care Ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs; relating to Federal, State, and local long-term care ombudsman policies; and

(ii) assist State Long-Term Care Ombudsmen in the implementation of State Long-Term Care Ombudsman programs; and

(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 2000;

# **ANNUAL OMBUDSMAN REPORT TO CONGRESS AND OTHERS**

## **Older Americans Act Language**

Sec. 207. (b)(1) Not later than March 1 of each year, the Assistant Secretary shall compile a report--

(A) summarizing and analyzing the data collected under titles III and VII in accordance with section 712(c) for the then most recently concluded fiscal year;

(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

(D) making recommendations regarding legislation and administrative actions to resolve such problems.

(2) The Assistant Secretary shall submit the report required by paragraph (1) to--

(A) the Select Committee on Aging of the House of Representatives;

(B) the Special Committee on Aging of the Senate;

(C) the Committee on Education and Labor of the House of Representatives; and

(D) the Committee on Labor and Human Resources of the Senate.

(3) The Assistant Secretary shall provide the report required by paragraph (1), and make the State reports required under titles III and VII in accordance with section 712(h)(1) available, to--

(A) the Administrator of the Health Care Financing Administration;

(B) the Office of the Inspector General of the Department of Health and Human Services;

(C) the Office of Civil Rights of the Department of Health and Human Services;

(D) the Secretary of Veterans Affairs; and

(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).

This document was compiled in October 1999 by Administration on Aging (AoA) Ombudsman Program Specialist Sue Wheaton and updated following enactment of the 2000 Amendments to the Older Americans Act. The policies included were developed by AoA over a period of many years.